

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

KHAREE CRISWELL, et al.

v.

C.A. NO. 08-422 S

WAYNE T. SALISBURY, JR., et al.

REPORT AND RECOMMENDATION

Jacob Hagopian, Senior United States Magistrate Judge

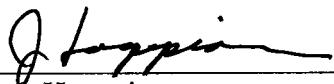
Kharee Criswell, Arron T. Vaughn, and Gregory Saunders (“Plaintiffs”), *pro se*, prisoners at the Wyatt Detention Center Facility (“Wyatt”) in Central Falls, Rhode Island filed a complaint pursuant to 42 U.S.C. § 1983 (“§ 1983”), naming as defendants Wyatt Warden Wayne T. Salisbury, Jr., Wyatt Program Administrator Jean Singleton, Administrative Captain Edward Johnson, and Wyatt Major F. Botelho (together, “Defendants”) (the “Complaint”) (Docket # 1). Plaintiffs were granted leave to proceed *in forma pauperis* (Docket # 3).

Presently before the Court is a motion filed by Plaintiff Criswell seeking summary judgment. This matter has been referred to me pursuant to 28 U.S.C. § 636(b)(1)(B). For the reasons stated below, I recommend that the motion be denied.

DISCUSSION

In the instant motion, Plaintiff Criswell urges that summary judgment should be granted in Plaintiffs’ favor because Defendants have not responded to the Complaint. However, as (i) simultaneously herewith, I have issued a Report and Recommendation finding that the Complaint fails to state a claim on which relief may be granted and recommending the Complaint be dismissed and (ii) there is no evidence on the record that Defendants were ever served in accordance with Rule 4 of the Federal Rules of Civil Procedure, Plaintiff Criswell has not shown that he is entitled to judgment as a matter of law. Accordingly, I recommend that Plaintiff Criswell’s instant motion be DENIED.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of Court within fourteen days of its receipt. Fed R. Civ. P. 72(b); LR Cv 72(d). Failure to file timely, specific objections to this report constitutes waiver of both the right to review by the district court and the right to appeal the district court's decision. *United States v. Valencia-Copete*, 792 F.2d 4, 6 (1st Cir. 1986) (per curiam).

A handwritten signature in black ink, appearing to read 'J. Hagopian', is written over a horizontal line.

Jacob Hagopian
Senior United States Magistrate Judge
December 14, 2010